



HUNGARY FACT SHEET 1
SEPTEMBER 2012

ADMINISTRATION OF COURTS

As a reaction to the Venice Commission's opinion issued in February 2012, an amendment to the cardinal laws on the organisation and administration of courts and on the legal status of judges was adopted on 2 July 2012 and came into effect on 17 July 2012. However, many of the Venice Commission's suggestions remained without any legislative response, and the conceptual problems of the new court regulation have not been eliminated. Concerns include the following:

1. **The President of the National Judicial Office (NJO)**, which is responsible for the administration of courts, is still elected by the Parliament, not judges; thus it **cannot be regarded as an organ of judicial self-government, but nonetheless exercises important powers** for an extremely long period of time (nine years) **without any meaningful control**.
2. Even though amendments transferred some of the powers of the President of the NJO to the National Judicial Council (NJC), the **administration of courts remains basically centralized**.
3. **The NJC is not able to exercise effective control over the President of the NJO**, since – despite the Venice Commission's urging to adopt a pluralistic composition – **the NJC consists only of judges**, who are dependent on the President of the NJO. In addition, the NJC must agree on its own budget with the President of the NJO; thus **it is not independent in terms of budgeting**.
4. **Judges are dependent on the President of the NJO**, who **can, for example, transfer judges without their consent** for a maximum of one year, every three years in order to ensure “the even distribution of caseload between courts”. Although the amendments granted the NJC the right to veto the decision of the President of the NJO in cases when the President chooses to deviate from the proposals of the council of judges which assesses applications for judicial position, the **rules allow the President to declare the call for applications to judicial positions unsuccessful without providing any reasoning**, which renders the NJC's disapproval and powers moot in this respect.
5. Amendments **upheld the right of the President of the NJO to appoint another court to proceed in a given case**, referring to the “extraordinary and disproportionate caseload” of a given court. Although in such cases the President of the NJO **shall take into account the principles established by the NJC** in transferring cases, **these principles are not enshrined in law either**; thus the right of the parties to a legally appointed judge is still violated. Furthermore, in August 2012, the NCJ simply adopted the recommendations issued by the President of the NJO earlier in this regard. Amendments grant “affected parties to the proceedings” the **possibility of appeal** to the Curia should they disagree with the transfer of their cases to another court, **but the right to an effective remedy is not ensured** due to the following reasons: (i) the Curia may only review compliance with the relevant, rather vague legal provisions and may not review the merits of the decision; (ii) presidential decisions do not contain relevant statistical data, which creates difficulties for the parties when it comes to evaluating the reasoning behind a transfer; and (iii) parties are not informed directly about a decision to transfer their case, but have only eight days to appeal once the decision is published on the Internet (no exemption is possible in this regard).

As of 23 September 2012, 30 cases were transferred to courts in the countryside from Budapest, including politically high-profile cases.